Agenda Item #13: Forensic accounting firm to inspect/audit Burnet County payroll records (occurs at approximately minute 35:26)

9-26-23

JO: Thirteen, discussion or action regarding the notification from the County Judge to the Commissioners Court of Burnet County payroll irregularities and the potential of directing Burnet County Auditor to employ a forensics accounting firm to inspect and audit Burnet County payroll records. Um, I believe the wording on that would be directing, uh, it wouldn't work for the auditor, it would work for the court, correct?

Karin Smith, Burnet County Auditor: Correct.

JO: That's correct. Um, so, um, in the name of transparency and um, making sure everything is correct, um, I feel it would be prudent to, um, get an outside forensics auditing firm, uh, to take a look at some irregularities and, talking with the auditor, um,

there's an agreement there as well as with the county attorney, and so, um, I'd like to go out and get some proposals and bring that to the next court.

Is there any questions, comments, or motions?

Damon Beierle, Pct 2 Commissioner: So this is just to go out for proposals on costs, of what it would cost, or....

JO: Yeah, I don't have that yet.

DB: I get you.

Joe Don Dockery, Pct 4 Commissioner: So it would be an RFP?

JO: No, it'd be Professional Services, because they're licensed CPAs. It wouldn't, doesn't require that. Correct?

KS: Yes, it does not require going out for a proposal, because of it being Professional Services. But I can bring back as many proposals as the court would like me to bring back to them.

JO: Okay.

Jim Luther Jr., Pct 1 Commissioner: Move for approval.

JDD: Second.

Assuming this is "Exhibit C" mentioned in the above October 29, 2024 letter to the Texas AG Open Records Division.

R

Gmail

Stephanie McCormick <smccormick@burnetcountytexas.org>

10-16-23

Fwd: Contacts - Burnet County

1 message

James Oakley <judgejamesoakley@gmail.com> Mon, Jul 15, 2024 at 8:42 AM
To: Stephanie McCormick <smccormick@burnetcountytexas.org>

Please print

James Oakley
Burnet County Judge
512-744-5205 cell / text
judgejamesoakley@gmail.com

Sent from iPhone

Begin forwarded message:

> **From:** James Oakley <judgejamesoakley@gmail.com>
> **Date:** October 16, 2023 at 9:18:59 AM CDT
> **To:** Katie.Rusch@bakertilly.com
> **Cc:** Sara Ann Luther <sluther@burnetcountytexas.org>
> **Subject: Contacts - Burnet County**
>
> Katie -
>
> As we discussed, here is an initial list of contacts for interviews :
>
> Constable Missy Bindseil, [redacted] she brought forward to the County Auditor, complaints from two deputies. She will also provide contact information for two former dispatch employees (Amy Wilson & Mary Chitwood) that should provide consistent narrative.
>
> Constable Scott Davis, [redacted], he used to work at the Sheriff's Office and was aware of the fraudulent practices.
>
> Karin Smith, County Auditor who is appointed by the District Judges, 512-756-5466. She received the complaint via Constable Bindseil and work with Sara Ann Luther (HR) to validate there was a problem. She also apprised myself and the County Attorney, who recommended she contact the District Attorney, Sonny McAfee.
>
> Eddie Arredondo, County Attorney [redacted]. Was apprised early (August '22) when the complaint was validated. He also sent a communication to the DA in August '23 that included expanded information that justified an investigation by the DA.
>
> Sara Ann Luther, HR Director 512-756-5489. Has done much timesheet research and provided findings to the County Auditor and County Attorney.
>
> There will be contacts within the Sheriff's Office that I think would be best for us to discuss when the time is right.
>
> This list is by no means comprehensive, but I think will provide a basis for other contacts and ultimately a required narrative for the report.
>
> James Oakley
> Burnet County Judge
> 512-744-5205 cell & text
> judgejamesoakley@gmail.com

Gmail

Stephanie McCormick <smccormick@burnetcountytexas.org>

Fwd: Baker Tilly reconnect with Burnet County

1 message

James Oakley <judgejamesoakley@gmail.com> Mon, Jul 15, 2024 at 8:59 AM
To: Stephanie McCormick <smccormick@burnetcountytexas.org>

Please print

James Oakley
Burnet County Judge
512-744-5205 cell / text
judgejamesoakley@gmail com

Sent from iPhone

Begin forwarded message:

From: James Oakley <judgejamesoakley@gmail.com>
Date: January 23, 2024 at 7:36 17 PM CST
To: "Rusch, Katie" <Katie.Rusch@bakertilly.com>
Cc: "Morris, Matt" <Matthew.Morris@bakertilly.com>, Sara Ann Luther <saraannluther@gmail.com>, Shirley Bullard <sbullard@burnetcountytexas org>
Subject: Re: Baker Tilly reconnect with Burnet County

Katie / Matt -

In reviewing the table, I think it is ultimately important to include the aspect of the timesheet being manipulated by a supervisor after the employee submitted the record. The point of this exercise and engagement is to enumerate and illustrate the CTO / FTO being added hours or days after the original timesheet was submitted. I don't know what effort it takes to determine this and I'm not saying it needs to be comprehensive, but there should be some examples. Maybe Sara Ann or Shirley can weigh in on this.

The narrative will need to include that the employee being trained does not have the ability to edit a record after being submitted.

I'm still refining the 1st of 2 lists of contacts with backgrounds for interviews, that should be finalized this week.

James Oakley
Burnet County Judge
512-744-5205 cell / text
judgejamesoakley@gmail.com

Sent from iPhone

On Jan 18, 2024, at 3:08 PM, Rusch, Katie <Katie.Rusch@bakertilly.com> wrote

Thank you again Judge Oakley for meeting with us yesterday.

As discussed on our call I have provided the interviewees listing below as well as a table with the high-level data points we walked through. If you could please provide me an email address for each interviewee as well as order the interviewee by priority for us to begin to reach out to them. We want to ensure we can incorporate the highest priority individuals while keeping the budget in mind.

Potential Interviewees

1. [redacted] – Former employee
2. Constable Missy Bindseil – Constable
3. Constable Scott Davis, Constable
4. [redacted] - Former employee
5. Karin Smith County Auditor

10am. We informed him the situation was still occurring. He said "The Sheriff says it's not happening." I informed the District Attorney that our statutorily required outside audit will be completed and due by the end of March '23. That process includes a sworn Affidavit to be filed by myself stating that I'm not aware of any fraud for the fiscal year. I told him "I would not be able to sign that this year, so this issue will be coming out in public so he should be prepared for that."

1-29-24

Sara Ann Luther
saraannluther@gmail.com
[redacted] personal cell

Was Burnet County HR Director at the time and performed extensive research into the allegations. She brought a wealth of information to the County Attorney in August on '23 that resulted in him forwarding to the District Attorney. She also spoke with an investigator, Jack Schumacher, for the DA's office in late October of '23. It is my understanding that he was "impressed" by all the information available.

Eddie Arredondo
earredondo@burnetcountytexas.org
[redacted] personal cell
Burnet County Attorney who the County Auditor, Karin Smith, brought the allegations to in August of '22. He informed her to take to the District Attorney. In August of '23 he and his assistant, Colleen Davis, were presented with a spreadsheet of information concerning and supporting the allegations. I'm told he forwarded it to the District Attorney along with a cover letter that indicated the allegations had merit. He copied the County Auditor Karin Smith, on the communication.

Colleen Davis
1st Assistant County Attorney
cdavis@ burnetcountytexas. org
[redacted] personal cell
She sat in on the meeting with Eddie Arredondo in August '23 when Sara Ann Luther, HR Director, presented them with substantial information that was eventually provided to the District Attorney.

Missy Bindseil
mbindseil@burnetcountytexas org
[redacted] personal cell

Burnet County Constable that provided the County Auditor with the allegations that were verbally made to her by at least 2 deputies and possibly other former Sheriff's Office employees.

Scott Davis
sdavis@burnetcountytexas org
[redacted] personal cell
Burnet County Constable that started working for the Sheriff's Office in March of '19 and was exposed to the FTO fraud. Our computer data in Time Clock only goes back to 1/4/20. Burnet County was cyber attacked on 12/15/19 and wiped out data files. Physical paper files (copies of timesheets) are available for dates prior to 1/4/20. The purpose of this call is to document that the fraud was occurring as early as 3/19 but the scope of the Baker Tilley audit only goes back to 1/4/20.

[redacted] personal cell
Former employee of Dispatch at the Sheriff's Office that documented the instances of the allegations. She now is a clerk for a JP's office. She was recently (December) interviewed by the DA's office.

[redacted]

She worked with [redacted] in dispatch. I believe she left in late summer of '18. She may provide info that the fraud was occurring at that time.

[redacted]
No email available
Former employee who worked with [redacted] and was told to add the time to timesheets.

Have decided to NOT contact Texas Ranger at this time.

There will be a short separate list of employees to call in another wave I suspect that it will be a 'no comment" scenario.

Otherwise, we are working on the table you provided and trying to determine why some employees' incidents did not get included when they should have.

James Oakley
Burnet County Judge
512-744-5205 cell / text
judgejamesoakley@gmail.com

Sent from iPhone

On Jan 18, 2024, at 3:08 PM, Rusch, Katie <Katie.Rusch@bakertilly.com> wrote

Gmail Stephanie McCormick <smccormick@burnetcountytexas.org>

Fwd: Contact list - unfriendly

2-23-24

1 message

James Oakley <judgejamesoakley@gmail.com> Mon, Jul 15, 2024 at 9:01 AM
To: Stephanie McCormick <smccormick@burnetcountytexas.org>

Please print

James Oakley
Burnet County Judge
512-744-5205 cell / text
judgejamesoakley@gmail.com

Sent from iPhone

Begin forwarded message:

> **From:** James Oakley <judgejamesoakley@gmail.com>
> **Date:** February 23, 2024 at 1:37:29 PM CST
> **To:** Katie Rusch <katie.rusch@bakertilly.com>
> **Subject: Contact list - unfriendly**
>
> Katie -
>
> I have decided to limit your inquiry to only the Sheriff. He should be asked about :
>
> - the policy on FTO / MCO pay
> - the recruitment ad that promotes FTO pay
> - How is the FTO / MCO program funded
> - How much is the program funded each fiscal year
> - Does he have any written communications and / or directives concerning FTO or MCO pay
> - How long has the FTO or MCO program been in place
>
> - anything else you think of
>
> Sheriff Calvin Boyd
> [redacted]
>
> James Oakley
> Burnet County Judge
> *512-744-5205 cell / text*
> judgejamesoakley@gmail.com
>
> Sent from iPhone

 K

Paul -

I'm traveling but wanted to timely let you know I received your responses to a portion of the items I brought up. I did not see a revised draft ?

6-17-24

James Oakley

Burnet County Judge

512-744-0205 cell / text

judgejamesoakley@gmail.com

Sent from iPhone

On Jun 27, 2024, at 11:56 AM, Nash, Paul <Paul.Nash@bakertilly.com> wrote:

Dear Judge Oakley,

Thank you for your email, and for your patience whilst I collated responses and discussed the points you raised internally. In the response below I have sought to address the key points you raise in order.

As a general observation, I have to reiterate the assumptions we set out in the original engagement letter, specifically Para 11(d), which states that delivery of our scope of work is reliant on: *(i) your internal investigation and data analysis being performed using a data set for which completeness, accuracy, and integrity have been validated, and (ii) the methodologies used in performing the internal investigation and analysis are clearly documented and available for Baker Tilly.* Unfortunately, the internal investigations and data analysis did not meet the aforementioned threshold, and therefore we could not simply undertake an accuracy and completeness review of the internal investigations and data analysis, hence discussing and agreeing a narrower scope of work on the January 17 call. As we have discussed previously, we have always been willing to expand the investigations and analysis, but to do so, it would require an increase to the original budget.

Once you have read the responses I would welcome any follow up questions from you.

Kind regards,

Paul

1. **Budget:**

1. *"Also, this engagement was approved on a not-to-exceed $20k, to date, we have been invoiced and likewise erroneously paid over $28k."* You paid a USD 7 5k retainer upfront, wh ch will be returned to you in the next week.

1. **'Orientation' Section.**

1. *"...this forensic audit is the result of complaints received from current and former employees"* We received the single whistleblower complaint (an image of a text message) which provided very limited details It would have been beneficial to receive copies of any other documented complaints at an earlier stage of the investigation

1. *"...produce ... a report that documented time clock entries wherein the original entry had been later edited such that time was added and coded with either FTO or CTO."* We discussed this analysis in our January call with you and the team, and specifically that due to the manual and time intensive work necessary to complete this analysis that we would unlikely progress this activity. Sara Ann Luther was part of the January call and agreed that this analysis was manual and time intensive, and that she had only reviewed a limited number of items for this reason (this links to the assumption in the engagement letter that the methodologies used (by Sara) in performing the internal investigation and analysis were clearly documented

1. **'Draft Report' Section:**

1. *"It was clearly communicated that Mrs. Luther was available via her cell phone and personal email address for any needs."* Mrs. Luther was present on calls discussing our work on the following days: October 4, October 25, November 29, January 3, and January 17. We were informed on October 25 that Mrs. Luther no longer worked for Burnet County. Whilst Mrs. Luther was named by you on the discussion/interviewee listing, we did not reach out to her because we had already spoken about the work she had conducted previously, and the information provided, on previous calls.

1. *"Beyond our initial "Hello, meet the team" phone call in October, no one was ever contacted for any technical needs, other questions or concerns."* We conducted calls with multiple parties during the project, as set out below:

    1. October 4 | Kick off call

    2. October 25 | Whilst we were informed that Mrs. Luther was no longer working for Burnet County, you looped in Mrs. Luther to the call. Mrs. Luther and Katie discussed the approach and methodology for her original analysis. Mrs. Luther and Katie discussed the login created for Baker Tilly to the time clock system.

    3. November 16 | BT team were introduced to Shirley Bullard, the new HR Director. We provided Ms. Bullard with access to our file sharing portal to upload documents.

    4. November 17 | BT team spoke with you regarding Mrs. Luther's availability (post her departure), the prior meeting discussion topics, the whistleblower complaint, and obtaining access to the time clock system.

    5. November 29 | BT team had a detailed call with you, Ms. Luther, and Ms. Bullard regarding the analysis conducted to date, terminology, timeline of allegation and Burnet County's work relating to it, supporting documentation, information provided to date, and the time clock system and how to navigate the data. BT team received access to the time clock system during this call. BT team discussed documents outstanding, and additional documents required (audit logs, timeline of situation).

    6. January 3 | Call between BT team you, Ms. Luther, Mr. Luther, and Ms. Bullard regarding scope and current focus of analysis.

    7. January 17 | Call between BT team and you, Ms. Luther, someone from the HR office, and Ms. Stephanie McCormick to provide an update on (i) analysis undertaken, (ii) challenges with tying back data to the Burnet County internal investigations and data analysis, and (iii) to discuss and confirm next steps (e.g., narrower scope focusing on specific individuals and date ranges, small number of interviews, reporting).

    8. January 18 | BT team sent an email to you to set out the preliminary analysis of the data (instances of FTO & CTO by individual) and guidance on potential interviewees (e.g., contact details for interviewees, ranking by priority with reference to available budget).

    9. February 1 | Call between BT team and you to discuss content of email dated January 18. BT team discussed specific terminology, instances of time entries edited later in time, and priority interviewees.

1. *"BT team was advised of how to access the system [Time Clock Plus] to view audit logs to determine when time entries were made or altered, and by whom."* On November 29 we had a detailed call regarding the analysis conducted to date, information provided to date, and the time clock system and how to navigate the data. We received access to the time clock system during the call. We utilized time clock plus to extract all the payroll reports in Microsoft Excel format, and this is the source data for our analysis. In the system it is possible to undertake a manual review by person/by entry to review details on the entry and if they were manually updated – we walked through a few examples during the call, but ultimately, we could not undertake a detailed analysis due to the budget constraints

1. *"About the only good part of the draft report is it illustrates the number of instances that FTO & CTO was used in the time sheet edits."* Our analysis forms the narrower scope of work agreed on the January 17 call – the analysis was focused on identifying the instances of the specific phrases "FTO" and "CTO" within Dispatch and SO Shift employees across the relevant period.

1. *"It does not show that the time added to the entry was added by a supervisor later and not part of the original entry."* In order to undertake this analysis, we would have to manually review the time clock system for each entry to identify if and/or when time was added/edited/updated (and by which individual). The audit log is shown directly in the system, and is not a system print out by a supervisor. In principle, we could review supporting documentation of the original schedules (if available at the Sheriff Department) created to show what the employee was assigned to work, to identify any discrepancies, in comparison to documentary evidence of overtime requests, approvals etc

1. <u>'Interviews' Section:</u>

1. *"BT team did not contact everyone they were instructed to contact."* In the engagement letter we state that we would 'Conduct interviews of county professionals (if appropriate)'. We acknowledge that you provided us with a listing of five individuals for interview on October 16, and a separate list of nine individuals on January 29, but we stated that further to the January 17 call the budget constraints would limit the number of interviews, and on February 23 you asked for us to interview the Sheriff.

2. *"The Sheriff was not asked the questions BT team was directed to ask."?* On February 23 you contacted the BT team by emailed to state that you had *"... decided to limit your inquiry to only the Sheriff"* and that he should be asked about (i) the policy on FTO/MCO pay; the recruitment ad that promotes FTO pay; how the FTO/MCO program was funded; how much is the program funded each fiscal year; and whether he has any written communications and/or directives concerning FTO or MCO pay. The areas you set out, with the exception of the recruitment advert, were discussed during the meeting.

Gmail

Jim Luther <jluther@burnetcountytexas.org>

7-08-24

Revisions to draft

1 message

James Oakley <judgejamesoakley@gmail.com> Mon, Jul 8, 2024 at 3:00 PM
To: Paul Nash <Paul.Nash@bakertilly.com>
Cc: Derek Royster <Derek.Royster@bakertilly.com>, Katie Rusch <katie.rusch@bakertilly.com>, Zaid Sultan <Zaid.Sultan@bakertilly.com>, Jim Luther <jluther@burnetcountytexas.org>, Sara Ann Luther <saraannluther@gmail.com>

Paul -

Please incorporate the specific edits I have provided (attached) to the recent draft. Please let me know as soon as possible if you have any questions on the edits I have provided.

James Oakley
Burnet County Judge
512-744-5205 cell / text
judgejamesoakley@gmail.com

Sent from iPhone

Scanned from a Xerox Multifunction Printer.pdf
542K

bakertilly

Burnet County

DATE: July 8, 2024
TO: Burnet County
FROM: Baker Tilly Advisory Group, LP
SUBJECT: ***Report of Baker Tilly's Investigation***

I. OVERVIEW

Baker Tilly Advisory Group, LP ("Baker Tilly," "we," or "our") was engaged to provide consulting services on behalf of Burnet County, Texas ("Burnet County" or the "Client") by Judge James Oakley ("Judge Oakley"). Baker Tilly agreed to perform certain procedures for the period of January 1, 2020, through January 31, 2023 (the "Relevant Period"). The scope for the investigation included:

- Reviewing policies and procedures.
- Reviewing and analyzing payroll records for 20-25 department employees during the period January 2020 through January 2023.
- Reviewing the payroll software (TimeClock Plus).
- Reviewing and validating through sample testing Burnet County's internal investigation and analysis.
- Conducting interviews of Burnet County professionals (if appropriate).
- Preparing a report summarizing our findings and recommendations.
- Providing the findings to the Commissioner's Court.

Employees

Baker Tilly's scope of work was in response to an inquiry made by Burnet County ~~Constables Precinct 4~~ regarding specific employees in the Sheriff Office ("SO Shift") and Dispatch ("Dispatch") departments, who may have received supplementary pay related to additional entries

For context, the previous HR Director was Commissioner Luther's wife Sara Ann Luther who abruptly quit on Oct 23, 2023 when a Texas Attorney General Opinion said her employment involved Nepotism. She now works at PEC where Oakley is on the Board of Directors.

internal investigation. ~~Additionally, the employee who had undertaken this analysis was no longer working for Burnet County, but made themself available for questions and did participate in discussions as Baker Tilly conducted its review~~. Following discussions with Judge Oakley on January 17, 2024 regarding the challenges in completing the scope of work within the original proposed budget, Baker Tilly and Judge Oakley agreed to limit the procedures to focus on the Allegation made during the Relevant Period.[1] The investigation was limited to analyzing the Burnet County payroll data from the payroll system, TimeClock Plus, during the Relevant Period for instances of the terms "FTO" or "CTO" for all employees in the SO Shift and Dispatch departments. The process and procedures for the investigation are detailed in Section III, below.

II. INFORMATION RECEIVED

Baker Tilly received and reviewed the following information provided by the Client:

- Burnet County analysis and related supporting information and documentation (i.e., payroll reports, analyses, images from the TimeClock Plus system, employee earnings statements).
- Payroll reports and time details from the TimeClock Plus system.
- Access to the TimeClock Plus system.
- Allegation documentation.
- Employee listing for Sheriff's Office and Dispatch departments.
- List of individuals with knowledge of the Allegation.
- Burnet County Personnel Policies & Employee Handbook.[2]

[1] *See* Overview section for more information on the Allegation.
[2] Note: Last amended Aug. 22, 2023

III. PROCEDURES PERFORMED

As previously mentioned, the procedures performed were limited to the Allegation during the Relevant Period.[3] The procedures performed included:

- Discussions with Burnet County current and former employees, including Sheriff Calvin Boyd, County Attorney Eddie Arrendondo, County Auditor Karin Smith, (additional individuals asked for anonymity).
- Reviewing the preliminary analysis conducted by Burnet County relating to the Allegation,
- Reviewing relevant policies and procedures,
- Analyzing payroll records for the SO Shift and Dispatch departments, and
- Preparing a concise report of observations and recommended next steps.

Baker Tilly's understanding is that Burnet County had previously conducted an internal investigation and analysis. These methodologies used in performing the investigation and analysis were to be made available for Baker Tilly's review. Unfortunately, the initial analysis undertaken by Burnet County was insufficient, and taking into consideration the budgetary constraints, Baker Tilly and Judge Oakley agreed the scope of work would be refined to identify instances of "FTO" or "CTO" in the SO Shift and Dispatch department employees time entries during the Relevant Period. Additionally, Baker Tilly agreed to hold focused discussions with a limited number of individuals identified by Judge Oakley in order to gain more information about the Allegation

Baker Tilly's observations are set out in Section IV, below.

[3] *See* Overview section for more information on the Allegation

descriptions were not included in the instance totals above; however, they were discussed with Judge Oakley.

The discussion with Burnet County regarding the additional descriptions provided additional background that these time entries could be relating to FTO or CTO but may have been captured with different wording. Additional analysis of supporting documentation (e.g., employee schedules, physical copies of approvals for time entries, etc.) for the department employees and/or discussions with specific department employees could be conducted to gain more information to identify any connection to FTO or CTO time entries in a second phase of work. Examples of time entry description wording identified during Baker Tilly's analysis (in addition to the "FTO" or "CTO" terms) include, but are not limited to, the following:

- Training,
- Instructor, and
- Meeting.

Baker Tilly observed a gap in understanding between the Sheriff's department representatives and other representatives of Burnet County surrounding the FTO and CTO programs and pay related to those programs for employees. Some examples of these gaps include but are not limited to: (i) recording time entries, (ii) approval process for time entries, (iii) employee pay for FTO and CTO work, (iv) department expectations for employee FTO and CTO work, and (v) FTO and CTO program details.

Based upon Baker Tilly's discussion with Sheriff Boyd and Chief Deputy Alan Trevino, there are two levels of approval for each officer's time entry before the matter is presented for the Sheriff or Chief Deputy's approval. Additionally, it was explained that within an officer's shift, it is difficult to quantify the total time spent on FTO or CTO, administrative or actual police related matters. For example, during an officer's shift (which can be up to 12 hours) the time spent can be related to many issues, however if, towards the end of the shift the officer is called to handle a police matter or an emergency call, that officer's time will be approaching the overtime threshold regardless. Therefore, according to the Sheriff's explanation, it is difficult to pinpoint the exact cause for any overtime payment, unless explicitly noted by the employee. Although ideally each employee should enter time with accurate descriptions, it is not always done accordingly. These descriptions would provide the additional detail of what the time is specifically relating to, for example "FTO", "CTO", "administrative time", "call out emergency", etc.

Baker Tilly also reviewed Burnet County's Personnel Policies & Employee Handbook (the "Employee Handbook").[9] The Employee Handbook, includes the following topics: introduction, employee responsibilities, employee compensation and advancement, benefits, health and safety, use of county property, discipline, separations, personnel files, travel expenses, internet/email, and Burnet County fraud policy. The Employee Handbook "sets forth the primary rules governing employment with the County of Burnet."[10]

The Burnet County fraud policy section of the Employee Handbook, was *"established to facilitate the development of controls which will aid in the detection and prevention of fraud against Burnet County"* and provides the *"guidelines and assigning responsibility for the development of controls*

[9] Note: Burnet County Personnel Policies & Employee Handbook, last amended Aug. 22, 2023

[10] Note. Burnet County Personnel Policies & Employee Handbook, last amended Aug. 22, 2023. Purpose at §1.02, p.1

V. RECOMMENDATIONS

As part of our review and analysis, Baker Tilly identified potential next steps for Burnet County's consideration and review, including:

- While our analysis was limited to the instances for the terms "FTO" and "CTO", Burnet County highlighted other areas that should be investigated. Baker Tilly did not include those in our initial review and analysis. Additional areas of interest discussed include, but are not limited to, the following:
    - Employee time entries with descriptions containing wording other than the use of the "FTO" and "CTO" terms (e.g., "meeting", "training", "instructor", etc.).
    - Employee time entries in time entry system (TimeClock Plus) with instances of adjustments, updates, edits, or deletions to identify any patterns or trends (e.g., approvals, employees, time periods, etc.).
    - Review employee time entries with overtime patterns similar to "FTO" and "CTO" term instances.
    - Review employee time entries with small incremental time entries or duplicative time entries for similar patterns of instances for the terms "FTO" or "CTO"
- Expand the review period prior to 2020, ~~as to include the full year of 2023.~~
- Review supporting documentation for time entries with other wording than the terms "FTO" and "CTO". Examples include, but are not limited to, the following:
    - overtime requests,
    - overtime approvals,

meeting requests,

meeting approvals,

training requests,

training approvals,

signoff on all approvals,

calendars for scheduled meetings for employees, and

time entries with concerning descriptions or wording, time entries with adjustments, updates, edits, or deletions, adjusted time entries.

- Conduct an in-depth review of Burnet County time entry processes and procedures for all employees and departments including, but not limited to, the request and approval of overtime, required documentation for time entries, time entry approval processes, and employee access to adjusting or editing time entries.
- ~~The gap in understanding discussed in Section B, Additional Observations, between representatives in Burnet County around policies and procedures, processes, programs relating to the Allegation should be further explored to find a resolution.~~
- The specific guidelines set forth by the Employee Handbook in the fraud policy section should be further analyzed and reviewed to ensure appropriate policy guidelines were followed in regard to the Allegation
- Conduct in-depth interviews with potential individuals who can provide additional details or information related to the instances of the terms "FTO" and "CTO" identified in Baker Tilly's work

- Conduct discussions with Burnet County's external and internal auditors, district attorney's office, follow up discussions with the sheriff's department, and other individuals to gain more background and information regarding the Allegation.

****

This Report is intended solely for the use of Burnet County Any unauthorized use or distribution of this Report, its attachments, or any portions thereof is prohibited.

The procedures performed were determined in consultation with Burnet County and limited to those described herein. This Report highlights the procedures we performed along with selective, non-verbatim accounts of matters discussed during the engagement. This Report does not attempt to distinguish information provided by Burnet County based on first-hand knowledge from information provided based on hearsay, logical inference, or speculation.

Baker Tilly's observations are based on the documents and other information provided to date Information obtained after the date of this Report may affect our analysis and the effect may be significant or material. If requested by Burnet County, we will update our analysis and Report for an agreed-upon additional fee.

Baker Tilly's forensic services are not intended to be, nor should they be considered an audit, review, or compilation in accordance with generally accepted auditing standards ("GAAS") The American Institute of Certified Public Accountants (the "AICPA") defines the "objective of the ordinary audit of financial statements by the independent auditor is the expression of an opinion on the fairness with which they present, in all material respects, financial position, results of operations, and its cash flows in conformity with generally accepted accounting principles "[13]

Unlike an audit done in conformity with generally accepted accounting principles ("GAAP"), this review was conducted to analyze specific activity reported within the Client's organization. As such, Baker Tilly does not make any determinations regarding any particular transaction, or the

[13] American Institute of Certified Public Accountants AU 00110 Responsibilities and Functions of the Independent Auditor, revised March 2006, at 1

7-9-2024

R

Gmail Shirley Bullard <sbullard@burnetcountytexas.org>

Re: Burnet County

1 message

James Oakley <judgejamesoakley@gmail.com> Wed, Jul 10, 2024 at 8:43 AM
To: "Mailandt, Cary" <Cary.Mailandt@bakertilly.com>
Cc: Shirley Bullard <hrc@burnetcountytexas.org>

Also, if there is a need to access the time clock portal, etc.. please contact the HR Director, Shirley Bullard 512-756-5489. She is a wealth of information on this situation.

7/10

James Oakley
Burnet County Judge
512-744-5205 cell / text
judgejamesoakley@gmail.com

Sent from iPhone

> On Jul 9, 2024, at 9:14 PM, Mailandt, Cary <Cary.Mailandt@bakertilly.com> wrote:
>
> Hi James - as a quick update, I was able to connect live with Derek Royster today, our senior partner that leads the forensics and litigation support team in the USA. He will be reaching out to both [redacted] and [redacted] tomorrow to follow up with them. He will also coordinate directly with Paul to ensure the changes are made to the document. Please keep me posted on the progress, but I do think you're in a better spot now as I've prioritized your case. Thanks very much for being persistent and getting in touch with me so I can help out! I look forward to meeting you in person one day as I'm just up the road. Have a great week and lets stay in touch.
>
> Cary Mailandt
>
> Managing Principal, Corporate Finance & Forensics (CFF)
>
> Cary.Mailandt@bakertilly.com
> ---
> Elaine McCoy
> Executive Assistant
> T: +1 (972) 505 3822 | elaine.mccoy@bakertilly.com
>
> -----Original Message-----
> From: James Oakley <judgejamesoakley@gmail.com>
> Sent: Tuesday, July 9, 2024 1:47 PM
> To: Mailandt, Cary <Cary.Mailandt@bakertilly.com>
> Subject: Burnet County
>
> CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.
>
>
> Cary -
>
> I am ever so thankful of your call today. Of the things I forwarded on to you is an email to Paul that sums up the project pitfalls. One of the biggest concerns is when your folks called our internal auditor, Karin Smith. Karin told me after the interview call that "those people have no idea what that are doing". That only leads me to believe that the other calls were worthless as well. Please call me for any clarifications, etc..
>
> I would ask that 2 calls be made to better understand the mechanics of what happened and what we need.
>
> [redacted]
>
> [redacted]
>

> I really think it would be helpful if they were contacted.
>
>
> Again, please call me anytime with any questions. Thanks again.
>
> James Oakley
> Burnet County Judge
> 512-744-5205 cell / text
> judgejamesoakley@gmail.com
>
> Sent from iPhone

BURNET COUNTY ATTORNEY'S OFFICE

1 10-29-24

Victim Services
Hot Checks Division

Criminal Division
Civil Division

Eddie Arredondo
Burnet County Attorney

The Honorable Ken Paxton, Attorney General
Office of the Attorney General
Open Records Division
P.O. Box 12548
Austin, Texas 78711-2548

October 29, 2024

RE: Request for Open Records Decision as Per Tex. Gov't Code §552.301
Requestor: [redacted]
Entity: Burnet County- County Judge, Commissioner Pct. #1, Human Resources
Commissioner Pct# 1,2,3,&4
Date Received: 10-18-24

General Paxton:

As the Burnet County Attorney, I have been asked by Burnet County Judge James Oakley to seek a ruling on an open records request made by an individual, [redacted]. Judge Oakley is the elected official responsible for the office of the County Judge and the Human Resources Office (among others). He and three employees of these offices were asked to provide records. **Exhibit A** is a copy of the request and is attached. Please note that Shirley Bullard and Shelly Denton are employees in the Human Resources Office while Stephanie McCormick is an employee in the County Judge's Office. These individuals along with Judge James Oakley plus Burnet County Commissioner Precinct #1 Jim Luther, Burnet County Commissioner Precinct #2 Damon Beierle, Burnet County Commissioner Precinct #3 Billy Wall, and Burnet County Commissioner Precinct #4 Joe Don Dockery were each asked to respond. Please note that this request for a determination involves only the records held by Judge James Oakley and his three employees he oversees, Stephanie McCormick, Shelly Denton, and Shirley Bullard.

The requesto[redacted] asked for the following:

> All email (regarding the 2023-2024 BakerTilly payroll audit) between Burnet County, Texas and saraannluther@gmail.com (please include Burnet County email addresses as well as judgejamesoakley@gmail.com and jimlutherjr@gmail.com email addresses)

Phone: 512.756.5476 • Fax: 512.[illegible] South Pierce • Burnet, Texas 78611

1 10[illegible]

Certain background information is required for context. The email address saraannluther@gmail.com belongs to a former employee of the human resources office. This is a personal email address not associated with Burnet County. Email address judgejamesoakley@gmail.com is a personal email address frequently used by Judge James Oakley for county business purposes. Email address jimlutherjr@gmail.com is a personal email address not associated with Burnet County. This personal email address belongs to Burnet County Commissioner Precinct One Jim Luther. Email address hrc@burnetcountytexas.org is an email address associated with the Burnet County Human Resources Department. Shirley Bullard monitors said address.

Judge James Oakley, Shirley Bullard, Shelly Denton, and Stephanie McCormick have released the majority of the responsive documents. However, there are three emails from which they wish to redact names and contact information of individuals subject to the investigation. They have currently released those emails with the redactions to [redacted] These emails are attached as **Exhibit B**. The redacted version of these same emails are attached as **Exhibit C**.

These specific documents were a part of a recent open records request made by [redacted]. On behalf of the holders of the records, I wrote to Attorney General Hon. Ken Paxton on July 14, 2024 asking for a review and determination. The letters associated with this request are attached as **Exhibit D**. This request received three unique ID numbers: ID#24-030700, ID#24-030324, and ID#24-03071.

In response, I received OR2024-033038, OR2024-033160, and OR2024-033226. The records in this latest open records request **(Exhibit A)** were involved in that review and these responses. OR2024-033038 and OR2024-033160 indicated that the records were related to audit working papers prepared or maintained in the course of an audit authorized by an order of the county's Commissioner's Court and therefore could be exempt from release. However, OR2024-033226 indicated that although some of the submitted records were also considered audit working papers, others, (including those responsive to **Exhibit A** on this latest open records request) were to be redacted and released. The direction provided in OR2024-033226 was followed and the records were redacted and then released.

The same documents provided to you in **Exhibit B** and in redacted version **Exhibit C** have once again been requested, but without any redactions (see **Exhibit A**) and with one exception. [redacted] agrees that personal emails addresses and phone numbers may be withheld. [redacted] and Judge Oakley disagree as to releasing names of certain individuals who were to be interviewed for the audit as well as the names of the peace officer employees whose names appear on a chart of individual's records to review.

Judge Oakley asserts that the redactions noted in **Exhibit C** (unredacted version is **Exhibit B**) meet the exception described by Texas Government Code §552.116 addressing audit reports. These records (names) were prepared or maintained in conducting an audit or preparing an audit report as described by §552.116(b)(2). They are a part of the communications between Burnet County and the company that prepared the work, Baker Tilley. As required per 552.116(b)(1), the audit was ordered via a vote during Burnet County Commissioners on September 26, 2023.

The minutes of said meeting reflect a vote to hire Baker Tilley to conduct an investigation via a "forensic audit" under item #21b. Said meeting minutes are hereby attached as **Exhibit E** (see Item #21b). The contract approved on September 26, 2023 is hereby attached as **Exhibit F**. The term "audit" is in question. Burnet County continues to maintain §552.116 applies to the "forensic audit" ordered by the

Commissioners Court. However, the contract in **Exhibit F** indicates a "review" not to generally accepted auditing standards (see **Exhibit F #4**). Additionally, both the draft and final report provided by Baker Tilly state that it is not an audit and does not follow generally accepted audit principles and practices.

Judge Oakley has concerns about releasing names and positions of various individuals. He believes some individuals should be considered whistleblowers while others are names of peace officers. He believes that releasing the names of all of these individuals could potentially jeopardize their personal safety. Texas Government Code §552.152 describes an exception for confidentiality of information concerning a public employee or officer for personal safety reasons. Judge Oakley asserts that this exception also applies.

For the above stated reasons, Burnet County via Judge James Oakley requests your office issue an opinion that the responsive information attached in **Exhibit B** and redacted in **Exhibit C** should continue to be exempt from disclosure.

Respectfully,

Eduardo Arredondo
Burnet County Attorney

Enclosures as stated

cc: [redacted]
Email: [redacted]
w/o enclosures

More documents on this topic are available here.

https://www.dropbox.
com/scl/fo/5s6m68znc4iltpyyndidk/APwc6zHlOqwHc5dF9UFHzFE?
rlkey=5kl25mqx6jaa7tsly7q522eqk&st=j7kwdnv3&dl=0

or scan QR code